

**ORDER OF THE SUPREME COURT OF TEXAS**

Misc. Docket No. 00-**9124**

**Appointment of a District Judge to Preside  
in a State Bar Disciplinary Action**

The Supreme Court of Texas hereby appoints the Honorable John R. Holums, Judge of the 110th District Court of Floyd County, Texas, to preside in the Disciplinary Action styled:

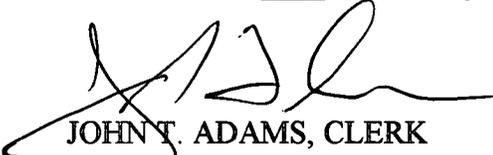
**The Commission for Lawyer Discipline v. David E. Davis**

to be filed in a District Court of Wichita County, Texas.

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Wichita County, Texas, a copy of this Order and of the Disciplinary Petition for filing and service pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

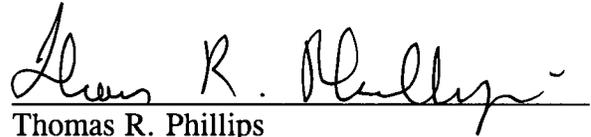
As ordered by the Supreme Court of Texas, in chambers,

With the Seal thereof affixed at the City  
Of Austin, this 9<sup>th</sup> day of August, 2000.

  
JOHN T. ADAMS, CLERK  
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 00-9124, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 9 day of August, 2000.

  
Thomas R. Phillips  
Chief Justice

NO. \_\_\_\_\_

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
V.	§	WICHITA COUNTY, TEXAS
DAVID E. DAVIS	§	_____ JUDICIAL DISTRICT

**DISCIPLINARY PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Petitioner, the Commission for Lawyer Discipline, a committee of the State Bar of Texas (hereinafter called "Petitioner"), complaining of Respondent, David E. Davis (hereinafter called "Respondent"), showing the Court:

**I.**

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex. Gov't. Code Ann. § 81.001, et seq. (Vernon 1988), the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure. The complaint which forms the basis of the Disciplinary Petition was filed on or after May 1, 1992. Pursuant to Rule 190.1, Texas Rules of Civil Procedure (TRCP), Petitioner intends that discovery in this case be conducted under Discovery Control Plan - Level 2, as provided in Rule 190.3, TRCP.

**II.**

Respondent is an attorney licensed to practice law in Texas and a member of the State Bar of Texas. Respondent is a resident of, and has his principal place of practice in, Wichita County, Texas. An officer may serve citation on Respondent at 916 9th St., Ste 100, Wichita Falls, Texas, 76301-3428.

### III.

In or around February 1993, Respondent was retained by Shirley McAllister to create a trust that would pay her an income from the investment, and preserve the principal for her use at a later date. Respondent advised Ms. McAllister that he could establish such a trust, and that he, acting as trustee, could invest these funds for her at ten percent interest per year. This was agreed upon by Respondent and Ms. McAllister verbally, but was not put into writing. After the sale of Ms. McAllister's home, Complainant endorsed the proceeds from the sale over to Respondent in the amount of thirty five thousand dollars, for the purpose of establishing the trust.

### IV.

Since the establishment of the trust, Respondent has refused to supply a copy of the trust documents to Ms. McAllister. Respondent has been delinquent in his payments to Complainant, with some of the latest check payments having been returned for insufficient funds.

### V.

The conduct described in the two above paragraphs constitutes a violation of Rule(s) 1.08(a)(1)(2) and (3) of the Texas Disciplinary Rules of Professional Conduct, Article X, Section 9, State Bar Rules, effective January 1, 1990.

### VI.

The complaint which forms the basis of the cause of action hereinabove set forth was brought to the attention of the Office of the Chief Disciplinary Counsel of the State Bar of Texas by a complaint filed by Ms. Shirley McAllister on or about May 19, 1999.

### PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined as the facts shall warrant; and that Petitioner have such other relief to

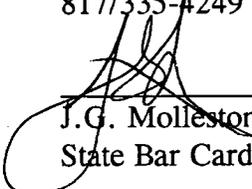
which entitled, including costs of Court and attorneys' fees.

Respectfully submitted,

Dawn Miller  
Chief Disciplinary Counsel

J.G. Molleston  
Assistant Disciplinary Counsel

Office of the Chief Disciplinary Counsel  
STATE BAR OF TEXAS  
500 Throckmorton Street, Suite 2600  
Fort Worth, TX 76102  
817/877-4993  
817/335-4249 (FAX)



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J.G. Molleston  
State Bar Card No. 00795924

ATTORNEYS FOR PETITIONER

# STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

June 26, 2000

John T. Adams, Clerk  
Supreme Court of Texas  
P.O. Box 12248  
Austin, Texas 78711

Re: Commission for Lawyer Discipline v. David E. Davis

Dear Mr. Adams:

Enclosed please find an original and two (2) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against David E. Davis. Mr. Davis has designated Wichita County, Texas, as his principal place of practice. Request is hereby made that the Court appoint an active District Judge who does not reside in the Administrative Judicial Region in which Respondent resides to preside in this case. Upon appointment, request is made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

David E. Davis  
916 9th Street, Ste 100  
Wichita Falls, Texas 76301-3428

As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to: (1) whether he or she will be able to comply with the 180 day deadline by which the case must be set for trial set forth in Section 3.07 of the Texas Rules of Disciplinary Procedure; and (2) whether he or she can accommodate compliance with *Mellon Service Co., et al v. Touche Ross Co.*, 946 S.W.2d 862 (Tex. App. - Houston [14th Dist.] 1997), which requires that all proceedings incident to a case occur in the county of proper venue. If not, I would respectfully request that an alternate appointment be made.

Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Denton County, Texas, with the request that the suit be filed, service be obtained, and a file-marked copy of the petition be returned to the undersigned.

Mr. John Adams

500 Throckmorton, Suite 2600, Fort Worth, Texas 76102, (817)877-4993 (Fax 335-4249)

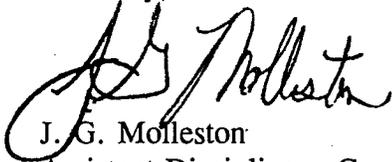
June 26, 2000

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Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Wichita County, Texas, and a return envelope to be sent to the District Clerk of Wichita County, Texas, for the Clerk's use in returning a file-marked copy of the Petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. G. Molleston". The signature is written in black ink and is positioned above the typed name.

J. G. Molleston  
Assistant Disciplinary Counsel  
Office of the Chief Disciplinary Counsel  
State Bar of Texas

JGM/



# The Supreme Court of Texas

CHIEF JUSTICE  
THOMAS R. PHILLIPS

201 West 14th Street Post Office Box 12248 Austin TX 78711  
Telephone: 512/463-1312 Facsimile: 512/463-1365

CLERK  
JOHN T. ADAMS

JUSTICES  
NATHAN L. HECHT  
CRAIG T. ENOCH  
PRISCILLA R. OWEN  
JAMES A. BAKER  
GREG ABBOTT  
DEBORAH G. HANKINSON  
HARRIET O'NEILL  
ALBERTO R. GONZALES

EXECUTIVE ASSISTANT  
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST  
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT  
NADINE SCHNEIDER

AUG 21 2000

The Honorable Dorsey Ray Trapp  
District Clerk of Wichita County  
P.O. Box 718  
Wichita Falls, Texas 76307-0718

Dear Mr. Trapp:

Pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure, I am sending for filing State Bar of Texas Disciplinary Action styled: *The Commission for Lawyer Discipline v. David E. Davis*, and a copy of the Supreme Court's order appointing the Honorable John R. Hullums, Judge of the 110<sup>th</sup> District Court of Floydada, Texas, to preside in this Disciplinary Action.

Sincerely,

**SIGNED**

John T. Adams  
Clerk

cc: Hon. John R. Hullums  
Mr. J.G. Molleston  
Mr. David E. Davis



# The Supreme Court of Texas

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AUG 21 2000

Honorable John R. Hollums  
Judge, 110<sup>th</sup> District Court  
100 Main Street, 2<sup>nd</sup> Floor  
Floydada, Texas 79235

Dear Judge Hollums:

We enclose for your information a copy of the order of assignment, a copy of the Disciplinary Action, a copy of the notification letter to Mr. Davis and Mr. Molleston, and a copy of the letter to the District Clerk of Wichita County.

We then recommend that, four or five weeks after receipt of this letter, you or your coordinator contact the presiding judge or the District Clerk of Wichita County to find out the district court to which this disciplinary case has been assigned. We then recommend that, either before or immediately after you set the case for trial, the judge or coordinator of that court be contacted to reserve a courtroom, provide for a court reporter, etc. Finally, you should contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (817-884-3328) to obtain claims forms for your expenses and other information incident to presiding over this disciplinary case.

Sincerely,

**SIGNED**

John T. Adams  
Clerk



# The Supreme Court of Texas

CHIEF JUSTICE  
THOMAS R. PHILLIPS

201 West 14th Street Post Office Box 12248 Austin TX 78711  
Telephone: 512/463-1312 Facsimile: 512/463-1365

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ADMINISTRATIVE ASSISTANT  
NADINE SCHNEIDER

AUG 21 2008

Mr. J. G. Molleston  
Assistant General Counsel, State Bar of Texas  
500 Throckmorton, Suite 2500  
Fort Worth, Texas 76102

Mr. David E. Davis  
916 9<sup>th</sup> Street, Suite 100  
Wichita Falls, Texas 76301-3428

Dear Mr. Molleston and Mr. Davis:

Pursuant to Rule 3.02 of the Texas Rules of Disciplinary Procedure, I hereby notify you that the Supreme Court of Texas has appointed the Honorable John R. Hollums, Judge of the 110<sup>th</sup> District Court of Floydada, Texas to preside in

*Commission for Lawyer Discipline v. David E. Davis*

Sincerely,

SIGNED

John T. Adams  
Clerk